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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,613	12/13/2000	Rayvon E. Reynolds	DRY 303	8018

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9
EXAMINER

MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,613

Applicant(s)

REYNOLDS, RAYVON E.

Examiner

Brian P Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-11 and 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The phrase "less than approximately" in instant claims 8-9 renders the claims vague and indefinite. The phrase "less than approximately" renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "less than approximately". It is unclear what values are encompassed by the phrase "less than approximately". The examiner suggests that this phrase should be changed to either "less than". "Claims reciting "less than approximately" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about." **See MPEP 2173.05(b)**. Appropriate correction and/or clarification is required.

4. The phrase "approximately 0%" in instant claims 10-11 render the claims vague and indefinite, since the water component is required in independent claim 1, and is

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optional in dependent claims 10 and 11. Appropriate correction and/or clarification is required.

5. The phrase "greater than approximately" in instant claims 24-27 renders the claims vague and indefinite. The phrase "greater than approximately" renders the claim indefinite, since one of ordinary skill in the art would not be able to ascertain the metes and bounds of the phrase "greater than approximately". It is unclear what values are encompassed by the phrase "greater than approximately". The examiner suggests that this phrase should be changed to either "greater than". "Claims reciting "greater than approximately" are invalid for indefiniteness where there was close prior art and there was nothing in the specification, prosecution history, or the prior art to provide any indication as to what range of specific activity is covered by the term about." **See MPEP 2173.05(b)**. Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-77 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al, U.S. Patent No. 5,658,651.

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Smith et al, U.S. Patent No. 5,658,651, discloses a fabric treatment composition comprising 2.5-25% by weight of a fabric softening agent (see col. 4, lines 48-59), 2-5% by weight of a surfactant system, including both anionic and nonionic surfactants (see col. 7, line 17-col. 8, line 36), 10-20% by weight of a dispersing agent (see col. 8, line 37-col. 9, line 23), 2-75% by weight of an organic solvent, such as a glycol or an isoparaffin (see col. 9, lines 24-60), a minor amount of a perfume (see col. 10, lines 5-14), and 15-25% by weight of water (see col. 9, lines 61-66), per the requirements of the instant invention. It is further taught by Smith et al that the fabric treatment composition is contained in an absorbent sheet (see col. 2, lines 24-45 and col. 10, lines 15-34), and that the clothes are cleaned with the absorbent sheet containing the composition in a heat resistant bag that contains venting holes in a home dryer (see col. 2, line 24-col. 3, line 16 and col. 12, lines 27-65). Specifically, note Examples 1-2. Therefore, instant claims 1-77 are anticipated by Smith et al, U.S. Patent No. 5,658,651.

8. Claims 63-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Hellsten, U.S. Patent No. 4,659,332.

Hellsten, U.S. Patent No. 4,659,332, discloses a dry cleaning composition comprising 95% by weight of perchloroethylene, 1.65% by weight of Ca dodecyl benzene-sulphonate, 2.05% by weight of a blend of nonyl phenol + (6, 16, 20) EO, 1.05% by weight of n-butanol, 0.25% by weight of 2-ethyl-hexanol, and 10% by weight of water (col. 5, Example 1), per the requirements of the instant invention. Therefore, claims 63-66 are anticipated by Hellsten, U.S. Patent No. 4,659,332.

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9. Claims 63-66 are rejected under 35 U.S.C. 102(b) as being anticipated by Romack et al, U.S. Patent No. 5,858,022.

Romack et al, U.S. Patent No. 5,858,022, discloses a dry cleaning composition comprising 0.1-10% by weight of water, 0.1-10% by weight of at least one surfactant, and 0.1-50% by weight of an organic co-solvent (col. 2, lines 32-44). It is further taught by Romack et al that the organic co-solvent may be a hydrocarbon (col. 2, lines 51-54), that a fragrance may be incorporated into the composition (col. 3, lines 39-44), and that the surfactant may be nonyl phenyl ethoxylate (col. 4, lines 28-30), per the requirements of the instant invention. Therefore, claims 63-66 are anticipated by Romack et al, U.S. Patent No. 5,858,022.

Double Patenting

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-68 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No.

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5,965,504. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-68 of the instant invention and claims 1-17 of U.S. Patent No. 5,965,504 claim a similar dry cleaning article comprising an absorbent sheet permeated with a composition comprising 51-98% by weight of an organic solvent, 0-25% by weight of water, 1-5% by weight of a perfume, 1-14% by weight of an emulsifier, and minor ingredients (see claims 1-17 of U.S. Patent No. 5,965,504). Therefore, claims 1-68 of the instant invention are an obvious formulation in view of claims 1-17 of U.S. Patent No. 5,965,504.

12. Claims 1-77 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-48 of U.S. Patent No. 6,190,420. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-77 of the instant invention and claims 1-48 of U.S. Patent No. 6,190,420 claim a similar home dry cleaning method comprising treating fabrics in a home dryer with an article comprising an absorbent sheet permeated with a composition comprising 51-98% by weight of an organic solvent, 1-35% by weight of water, 1-5% by weight of a perfume, 1-5% by weight of a surfactant, 1-14% by weight of an emulsifier, and minor ingredients, whereby the absorbent sheet containing the composition and the fabrics are placed in a permeated container (i.e. a ventilated bag; see claims 1-48 of U.S. Patent No. 6,190,420). Therefore, claims 1-77 of the instant invention are an obvious formulation in view of claims 1-48 of U.S. Patent No. 6,190,420.

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (Before Final) and (703) 872-9311 (After Final).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Bm

Brian Mruk
September 8, 2003

Brian P. Mruk

Brian P. Mruk
Patent Examiner
Tech Center 1700